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United States  
Circuit Court of Appeals  
For the Ninth Circuit.

HARRY J. DAHL,

Plaintiff in Error,

vs.

THE UNITED STATES OF AMERICA,

Defendant in Error.

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Transcript of Record.

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Upon Writ of Error to the United States District Court of  
the Western District of Washington, Northern Division.

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Filed

JAN 26 1916

F. D. Monckton,  
Clerk.



United States  
Circuit Court of Appeals

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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**Names and Addresses of Counsel.**

Messrs. GORDON & EASTERDAY, National Realty Building, Tacoma, Washington,  
E. C. MacDONALD, Esq., 742 New York Block, Seattle, Washington,

Attorneys for Plaintiff in Error.

CLAY ALLEN, Esq., United States Attorney,  
310 Federal Building, Seattle, Washington,  
ALBERT MOODIE, Esq., Assistant United States Attorney, 310 Federal Building, Seattle, Washington,

WINTER S. MARTIN, Esq., Assistant United States Attorney, 310 Federal Building, Seattle, Washington,

Attorneys for Defendant in Error. [1\*]

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*United States District Court, Western District of Washington, Northern Division.*

November Term, 1914.

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRY J. DAHL and WILLIAM A. McGEE,  
Defendants.

**Indictment.**

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\*Page-number appearing at foot of page of original certified Record.

The United States of America,  
 Western District of Washington,  
 Northern Division,—ss.

The grand jurors of the United States of America, duly selected, impaneled, sworn and charged to inquire within and for the Northern Division of the Western District of Washington, upon their oaths present:

#### COUNT I.

That Harry J. Dahl, *alias* Henry J. Dahl, late of Sumas, Washington, and William A. McGee, late of the county of King in said Washington, heretofore, to wit, on the fifteenth day of January, A. D. one thousand nine hundred and fifteen, at the City of Seattle in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, did unlawfully, wilfully, knowingly, feloniously, wickedly and maliciously conspire, combine, confederate and agree together, and together and with divers other persons to the said grand jurors unknown, to commit an offense against the United States, to wit, to violate section [2] eleven of the act of May 6, 1882, as amended and added to by act of July 5, 1884, in this that it was the purpose and object of the said conspiracy and of the said conspirators, and each of them, to wilfully, knowingly and unlawfully bring and cause to be brought into the United States and into the Northern Division of the Western District of Washington in said United States from the Province of British Columbia in the Dominion of Canada, by land, certain Chinese alien persons not lawfully entitled to enter



the United States, and not entitled to be or remain in the United States at all, and it was further the object and purpose of the said conspiracy to wilfully and knowingly aid and abet the bringing of said Chinese aliens into the United States by land from the Province of British Columbia aforesaid; they, the said Chinese alien persons, not being lawfully entitled to be or remain in the United States at all; all in violation of the said mentioned Act.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

That after the formation of said unlawful conspiracy and in pursuance of and to effect the object of said unlawful conspiracy, the said Harry J. Dahl, at Seattle in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, on the eighteenth day of January, A. D. one thousand nine hundred and fifteen, then and there being, did then and there wilfully, knowingly and feloniously give, deliver and pay to the said William A. McGee twenty dollars (\$20,00) in lawful money of the United States. [3]

And the grand jurors aforesaid, upon their oaths aforesaid, do further present: That after the formation of said unlawful conspiracy and in pursuance of and to effect the object of said unlawful conspiracy, the said Harry J. Dahl, on the eighteenth day of January, A. D. one thousand nine hundred and fifteen, in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, then and there being, did then and there wilfully, knowingly, feloniously and corruptly go from

the said city of Seattle, within said District and Division, to the city of Vancouver in the Province of British Columbia in the Dominion of Canada; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

#### COUNT II.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

That Harry J. Dahl, *alias* Henry J. Dahl, late of Sumas, Washington, and William A. McGee, late of the county of King, in said Washington, heretofore, to wit, on the third day of February, A. D. one thousand nine hundred and fifteen, at the city of Seattle in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, did unlawfully, wilfully, knowingly, feloniously, wickedly and maliciously conspire, combine, confederate and agree together, and together and with divers other persons to the said grand jurors unknown, to commit an offense against the United States, to wit, to violate section eleven of the act of May 6, 1882, as amended and added to [4] by act of July 5, 1884, in this, that it was the purpose and object of the said conspiracy and of the said conspirators, and each of them, to wilfully, knowingly and unlawfully bring and cause to be brought into the United States and into the Northern Division of the Western District of Washington in said United States from the Province of British Columbia in the Dominion of Canada, by land, certain Chinese alien persons not lawfully entitled to enter the United

States, and not entitled to be or remain in the United States at all, and it was further the object and purpose of the said conspiracy to wilfully and knowingly aid and abet the bringing of said Chinese aliens into the United States by land from the Province of British Columbia aforesaid; they, the said Chinese alien persons, not being lawfully entitled to be or remain in the United States at all; all in violation of the said-mentioned act.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

That after the formation of the said unlawful conspiracy and in pursuance of and to effect the object of said unlawful conspiracy, the said William A. McGee, on the third day of February, A. D. one thousand nine hundred and fifteen, in the Northern Division of the Western District of Washington, and within the jurisdiction of this Court, did wilfully, knowingly, feloniously and corruptly conduct, operate and drive an automobile from the city of Seattle to the city of Bellingham, all within the Division and District aforesaid.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

That after the formation of the said unlawful conspiracy [5] and in pursuance of and to effect the object of said unlawful conspiracy the said William A. McGee, at Bellingham in the Northern Division of the Western District of Washington, and within the jurisdiction of this Court, on the fifth day of February, A. D. one thousand nine hundred and fifteen, did wilfully, knowingly, feloniously and

corruptly buy and receive ten gallons of gasoline for use of an automobile, the more particular details of said transaction being to the grand jurors unknown.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

That after the formation of the said unlawful conspiracy and in pursuance of and to effect the object of said unlawful conspiracy, the said William A. McGee, at Bellingham in the Northern Division of the Western District of Washington, and within the jurisdiction of this Court, on the fifth day of February, A. D. one thousand nine hundred and fifteen, did feloniously and corruptly pay the sum of three dollars (\$3.70) and seventy cents in lawful money to the proprietor of a garage or storehouse for automobiles, whose name is to the grand jurors unknown, for storage, repairs and sundry small services in connection with the safekeeping of an automobile, the further particulars of the said safekeeping and storage being to the grand jurors unknown.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

That after the formation of the said unlawful conspiracy and in pursuance of and to effect the object of said unlawful conspiracy, the said William A. McGee, at Bellingham [6] in the Northern Division of the Western District of Washington, and within the jurisdiction of this Court, on the fourth day of February, A. D. one thousand nine hundred and fifteen, did wilfully, knowingly, feloniously and corruptly deliver a letter to the person in charge

of the Owl Drug Store in the city of Bellingham, aforesaid, whose name is to the grand jurors unknown, addressed and directed to him, the said Harry J. Dahl, which said letter then and there contained a statement in writing apprising him; the said Harry J. Dahl, of the arrival of him, the said William A. McGee, in said city of Bellingham, and the place said William A. McGee could thereafter be found in the city of Bellingham; a more particular description of the said letter and a more particular statement of the contents being to the grand jurors unknown.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

That after the formation of said unlawful conspiracy and in pursuance of and to effect the object of said unlawful conspiracy, the said Harry J. Dahl, on the third day of February, A. D. one thousand nine hundred and fifteen, in the Northern Division of the Western District of Washington, and within the jurisdiction of this Court, then and there being, did then and there wilfully, knowingly, feloniously and corruptly go from the said city of Seattle, within said Division and District, to the city of Vancouver in the Province of British Columbia in the Dominion of Canada; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America. [7]

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

That after the formation of the said unlawful conspiracy and in pursuance of and to effect the object

of the said unlawful conspiracy, the said Harry J. Dahl and the said William A. McGee, in the Northern Division of the Western District of Washington, and within the jurisdiction of this Court, on the fifth day of February, A. D. one thousand nine hundred and fifteen, did wilfully, knowingly, feloniously and corruptly go and travel from said Bellingham to the city of Sumas, all within said division and district.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

That after the formation of the said unlawful conspiracy and in pursuance of and to effect the object of the said unlawful conspiracy, the said William A. McGee, in the Northern Division of the Western District of Washington, and within the jurisdiction of this Court, on the fifth day of February, A. D. one thousand nine hundred and fifteen, did wilfully, knowingly, corruptly and feloniously transport and carry the said Harry J. Dahl, and cause him, the said Harry J. Dahl, to be carried and transported from the city of Bellingham to the city of Sumas, in said Division and District, in an automobile; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

### COUNT III.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present: [8]

That Harry J. Dahl, *alias* Henry J. Dahl, late of Sumas, Washington, and William A. McGee, late of the county of King in said Washington, heretofore, to wit, on the eighteenth day of February, A. D.

one thousand nine hundred and fifteen, at the city of Seattle in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, did unlawfully, wilfully, knowingly, feloniously, wickedly and maliciously conspire, combine, confederate and agree together, and together and with divers other persons to the said grand jurors unknown, to commit an offense against the United States, to wit, to violate section eleven of the act of May 6, 1882, as amended, and added to by act of July 5, 1884, in this, that it was the purpose and object of the said conspiracy and of the said conspirators, and each of them, to wilfully, knowingly and unlawfully bring and cause to be brought into the United States and into the Northern Division of the Western District of Washington in said United States from the Province of British Columbia in the Dominion of Canada, by land, certain Chinese alien persons not lawfully entitled to enter the United States, and not entitled to be or remain in the United States at all, and it was further the object and purpose of the said conspiracy to wilfully and knowingly aid and abet the bringing of said Chinese aliens into the United States by land from the Province of British Columbia aforesaid; they, the said Chinese alien persons, not being lawfully entitled to be or remain in the United States at all; all in violation of the said mentioned act.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present: [9]

That after the formation of the said unlawful conspiracy and in pursuance of and to effect the object

of the said unlawful conspiracy, the said William A. McGee, in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, on the eighteenth day of February, A. D. one thousand nine hundred and fifteen, did wilfully, knowingly, corruptly and feloniously drive, conduct, operate and cause an automobile to go from said Seattle to the city of Bellingham, all within the district and division aforesaid.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

That after the formation of the said unlawful conspiracy and in pursuance of and to effect the object of the said unlawful conspiracy, the said William A. McGee, in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, on the eighteenth day of February, A. D. one thousand nine hundred and fifteen, did wilfully, knowingly, feloniously and corruptly procure lodging, housing and safekeeping in the city of Bellingham, in said division and district, for an automobile.

And the said grand jurors aforesaid, upon their oaths aforesaid, do further present:

That after the formation of the said unlawful conspiracy and in pursuance of and to effect the object of the said unlawful conspiracy, the said William A. McGee, in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, on the twenty-third day of February, A. D. one thousand nine hundred and fifteen, did wilfully, knowingly feloniously and corruptly go from [10] the said city of Bellingham, in the di-



vision and district aforesaid, to the city of Vancouver in the Province of British Columbia in the Dominion of Canada, at the instance and request of the said Harry J. Dahl.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

That after the formation of the said unlawful conspiracy and in pursuance of and to effect the object of the said unlawful conspiracy, the said Harry J. Dahl and the said William A. McGee, in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, on the twenty-third day of February, A. D. one thousand nine hundred and fifteen, did wilfully, knowingly, feloniously and unlawfully go and travel from the city of Vancouver in the Province of British Columbia, aforesaid, to the city of Bellingham, in the division and district aforesaid.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

That after the formation of the said unlawful conspiracy and in pursuance of and to effect the object of the said unlawful conspiracy, the said William A. McGee, in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, on the twenty-third day of February, A. D. one thousand nine hundred and fifteen, did wilfully, knowingly, feloniously and corruptly procure lodging, housing and safekeeping in the city of Bellingham, in said division and district, for an automobile.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present: [11]

That after the formation of the said unlawful conspiracy and in pursuance of and to effect the object of the said unlawful conspiracy, the said William A. McGee, in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, on the the twenty-third day of February, A. D. one thousand nine hundred and fifteen, did wilfully, knowingly, feloniously and corruptly pay and deliver to the proprietor of the Standard Garage in the said city of Bellingham, whose name is to the grand jurors unknown, the sum of two dollars and twenty cents (\$2.20) for storage, care and safekeeping furnished for an automobile.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

That after the formation of the said unlawful conspiracy and in pursuance of and to effect the object of the said unlawful conspiracy, the said Harry J. Dahl and the said William A. McGee, in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, on the twenty-third day of February, A. D. one thousand nine hundred and fifteen, did wilfully, knowingly, feloniously and corruptly go and travel from said Bellingham to the city of Sumas, all within said division and district.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

That after the formation of the said unlawful conspiracy and in pursuance of and to effect the object of the said unlawful conspiracy, the said William A. McGee, in the Northern Division of the Western

District of Washington, and within the jurisdiction of this court, on the twenty-third [12] day of February, A. D. one thousand nine hundred and fifteen, did wilfully knowingly, corruptly and feloniously transport and carry the said Harry J. Dahl, and cause him, the said Harry J. Dahl, to be carried and transported from the city of Bellingham to the city of Sumas, in said division and district, in an automobile; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

CLAY ALLEN,

United States Attorney.

WINTER S. MARTIN,

Assistant United States Attorney.

[Indorsed]: The United States vs. Harry J. Dahl and William A. McGee. Indictment for Section 37, Penal Code, to violate Sec. 11, Act May 6, 1882. A True Bill. James E. Riley, Foreman Grand Jury. Presented to the Court by the Foreman of the Grand Jury, in Open Court, in the Presence of the Grand Jury, and Filed in the U. S. District Court, March 19, 1915. Frank L. Crosby, Clerk. [13]

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*In the District Court of the United States for the  
Western District of Washington, Southern Di-  
vision.*

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

H. J. DAHL,

Defendant.

**Bond [for Appearance].**

KNOW ALL MEN BY THESE PRESENTS: That we, H. J. Dahl, defendant above-named, as principal, and H. Anderson, W. L. Ross and J. E. Belcher, as sureties, are held and firmly bound unto the United States of America and jointly and severally acknowledge ourselves to owe the United States of America the sum of five thousand dollars to be levied on our goods and chattels, land and tenements, if default be made in the condition of this bond for the payment of which sum, well and truly to be made, we do bind ourselves, our heirs, executors, administrators and assigns jointly and severally firmly by these presents.

Sealed with our seals and dated this 20th day of March, 1915.

The condition of this obligation is such that whereas in the above-entitled court on the 19th day of March, 1915, an indictment was duly presented and returned in court by a grand jury of said court charging the above-named defendant and principal herein, H. J. Dahl, with the crime of bringing and knowingly aiding and abetting in bringing into the United States Chinese persons not lawfully entitled to enter the United States and in violation section 37 of the Penal Code with intent to violate section 11 of the act of May 6, 1882, and the acts of Congress amendatory thereof, which crime is alleged to have been committed on or about the 23d day of [14] February, 1915.

Now, therefore, if the above-bounden, H. J. Dahl, shall well and truly appear and answer said indict-

ment or any other indictments or presentation which may be returned or made against him in said court and thereafter to abide the order of the court and not to depart from the jurisdiction of said court without permission of the judge thereof and to render himself in final judgment and in all things to abide the order of the court in the premises, then this obligation to be void, otherwise to remain in full force and virtue.

H. J. DAHL,  
Principal.  
H. ANDERSON,  
W. L. ROSS,  
J. E. BELCHER,  
Sureties.

The above bond be and is hereby approved this 20th day of March, 1915.

G. P. FISHBURNE,  
Assistant U. S. Attorney.

Approved May 20, 1915.

JEREMIAH NETERER,  
Judge.

United States of America,  
Western District of Washington,  
County of Pierce,—ss.

H. Anderson, a surety on the foregoing bond, being duly sworn, deposes and says: That he resides in the city of Tacoma in the county of Pierce, State of Washington, within the Western District of Washington; that he is a freeholder of the county of Pierce, State of Washington, and is worth the sum of four thousand dollars (\$4,000), over and above all

his just debts and liabilities in property subject to execution and sale; that his property consists of real and personal property of value in excess of the sum of four thousand dollars (\$4,000).

H. ANDERSON. [15]

Subscribed and sworn to before me this 20th day of March, 1915.

[Seal] M. J. GORDON,  
Notary Public, in and for the State of Washington,  
Residing at Tacoma.

United States of America,  
Western District of Washington,  
County of Pierce,—ss.

W. L. Ross and J. E. Belcher, sureties on the foregoing bond, being duly sworn, depose and say and each for himself says: That he resides at the city of Tacoma in the county of Pierce, State of Washington, and within the Western District of Washington; that he is a freeholder of the county of Pierce, State of Washington, and is worth the sum of three thousand dollars (\$3,000), over and above all his just debts and liabilities in property subject to execution and sale; that his property consists of real and personal property of value in excess of three thousand dollars (\$3,000).

W. L. ROSS,  
J. E. BELCHER.

Subscribed and sworn to before me this 20th day of March, 1915.

[Seal] M. J. GORDON,  
Notary Public, in and for the State of Washington,  
Residing at Tacoma.

[Indorsed]: Bond. Filed in the U. S. District Court, Western Dist. of Washington, Nor. Division. Mar. 20, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [16]

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[Minutes of Court, March 22, 1915—Arraignment and Plea.]

*In the District Court of the United States for the Western District of Washington, Northern Division.*

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRY J. DAHL et al.,

Defendants.

Now on this day into open court comes the said defendant Harry J. Dahl for arraignment, accompanied by his counsel Messrs. Gordon & McDonald, and being asked if the name by which he is indicted is his true name, replies, "It is." Whereupon, the reading of the indictment is waived and he here and now enters his plea of not guilty to the charge in the indictment herein against him.

Dated March 22, 1915.

Journal 4, page 407. [17]

*In the District Court of the United States for the  
Western District of Washington, Northern Di-  
vision.*

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRY J. DAHL et al.,

Defendants.

**Demurrer of Dahl to Indictment.**

Comes now the defendant Dahl, and demurs to the indictment as a whole, and to each and every count thereof separately, upon the ground that the matters and things alleged therein do not constitute any offense or offenses against the laws or sovereignty of the United States; and that neither said indictment, nor any count thereof, alleges any offense of which this court has jurisdiction; and because said indictment, and each of the counts therein is in other respects informal, insufficient and defective.

GORDON & EASTERDAY,

E. C. MacDONALD,

Attorneys for Deft. Dahl.

[Indorsed]: Demurrer of Defendant Dahl to Indictment. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. Mar. 23, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [18]



[**Order Overruling Demurrer.**]

*In the District Court of the United States for the  
Western District of Washington, Northern Di-  
vision.*

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

H. J. DAHL et al.,

Defendants.

Now on this day this cause comes on for hearing on demurrer to indictment, the plaintiff represented by Clay Allen and W. S. Martin, and the defendant H. J. Dahl represented by Gordon & Easterday and E. C. Macdonald, and the Court after hearing argument of respective counsel overrules said demurrer.

Dated April 5, 1915.

Journal 4, page 436. [19]

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*In the District Court of the United States for the  
Western District of Washington.*

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRY J. DAHL,

Defendant.

**Verdict.**

We, the jury in the above-entitled cause, find:  
 Defendant Harry J. Dahl is guilty of Count I.  
 Defendant Harry J. Dahl is guilty of Count II.  
 Defendant Harry J. Dahl is guilty of Count III.

A. J. M. HOSOM,  
 Foreman.

[Indorsed]: Verdict. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. June 4, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [20]

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*In the District Court of the United States for the  
 Western District of Washington, Northern Division.*

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

H. J. DAHL et al.,

Defendants.

**Order That Present Bond Remain in Force.**

Now on this day it is ordered that the present bond remain in force and defendant be released thereunder pending hearing in "Arrest of Judgment."

Dated June 4, 1915.

Journal 4, page 492. [21]

United States District Court, Western District of  
Washington, Northern Division.

UNITED STATES OF AMERICA

vs.

HARRY J. DAHL,

Defendant.

**Motion for New Trial.**

The defendant having heretofore made his motion for judgment *non obstante veredicto*, and motion in arrest of judgment, does now, in the event that said motions are denied and not waiving the same, move the Court for a new trial upon the following grounds:

1st. Errors of law occurring at the trial and excepted to at the time by the defendant.

2d. That the verdict is contrary to the law and the evidence, and is not supported by the evidence.

GORDON & EASTERDAY,  
E. C. MacDONALD,  
Attorneys for Defendant.

Due service of within motion for new trial admitted June 5, 1915.

ALBERT MOODIE,  
Assistant U. S. Attorney.

[Indorsed]: Motion for New Trial. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, June 5, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [22]

[Minutes of Court, June 26, 1915—Hearing on Motion in Arrest of Judgment and Motion for New Trial.]

*In the District Court of the United States for the Western District of Washington, Northern Division.*

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

H. J. DAHL,

Defendant.

Now on this day this cause comes on for hearing on motion in arrest of judgment and motion for new trial, the plaintiff being represented by Winter S. Martin, and the defendant present in his own proper person and accompanied by his counsel Gordon & Macdonald, whereupon the arguments are made by respective counsel and the Court takes said matters under advisement.

Dated June 26, 1915.

Journal 5, page 12. [23]

**[Minutes of Court, July 1, 1915—Order Denying  
Motions in Arrest of Judgment and Motion for  
New Trial, etc.]**

*In the District Court of the United States for the  
Western District of Washington, Northern Di-  
vision.*

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

H. J. DAHL et al.,

Defendants.

Now on this day defendant H. J. Dahl appears in open court, being represented by his counsel, Messrs. Gordon & Easterday and E. C. Macdonald, whereupon the Court announces his decision, denying motions in arrest of judgment and motion for new trial, and exception is allowed to each defendant. The plaintiff moves for judgment and sentence which is given at this time.

Dated July 1, 1915.

Journal 5, page 19. [24]

[**Opinion on Motion in Arrest of Judgment.**]

*United States District Court, Western District of  
Washington, Northern Division.*

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRY J. DAHL and WILLIAM A. McGEE,

Defendants.

Filed July 1, 1915.

CLAY ALLEN, United States Attorney, for  
Government.

WINTER S. MARTIN, Asst. U. S. Attorney,  
for Government.

E. C. MacDONALD, of Seattle, Washington.

GORDON & EASTERDAY, of Tacoma, Wash-  
ington.

NETERER, District Judge, for Defendant HARRY  
J. DAHL.

The indictment in this case charges a conspiracy under section 37 of the Penal Code, for violation of section 11 of the Chinese Exclusion Act of 1882, as amended. After formal parts, count one alleges, "did unlawfully, wilfully, knowingly, feloniously, wickedly and maliciously conspire, combine, confederate and agree together, and together with divers other persons to the grand jurors unknown," and then charges overt acts committed in furtherance of the conspiracy. Each of the counts in the indict-

ment contains similar language, followed by the charge of overt acts. A formal demurrer was tendered by defendant Dahl, but was not argued. The case was tried; the jury returned a verdict of guilty, and a motion in arrest of judgment is made by defendant Dahl. The sufficiency of the indictment is now vigorously attacked, and it is contended that the indictment does not charge a conspiracy to commit an offense against the United States; nor set forth with sufficient particularity the elements of the conspiracy, and that the overt acts set out are not overt acts in furtherance of any conspiracy; that the [25] defendants who are charged with conspiring are not Chinese who are excluded by the act, and that the conspiracy to violate the act could not be entered into unless it included persons who were excluded by the act, as they necessarily must be parties to consummating the unlawful confederation.

I think this part of the objection can be answered by reference to the indictment where it says, "together with divers other persons to the grand jurors unknown." The further objection that the names of the persons who were to be brought into the United States were not given in the indictment, I think is answered by reference to the indictment, where it is alleged, in substance, that the conspiracy was a general conspiracy to bring in Chinese aliens not lawfully entitled to enter the United States. *Williamson vs. U. S.*, 207 U. S. 425-447. An indictment must be free from ambiguity, uncertainty and repugnance, and clearly state every ingredient of

the offense charged. It is not necessary, however, to set out the means by which a conspiracy is to be carried out; nor that they are a part of the agreement or confederation; nor what part each conspirator is to play; nor the character of the acts to be performed to effectuate the purpose. It is the conspiracy to do the unlawful thing that is the gravamen of the offense. The offense charged is not of itself a crime under the Exclusion Act; hence the acts need not be charged with the same particularity. Reason suggests that in a charge of conspiracy to commit a crime, while the particular crime must be alleged, it need not be set out with the same particularity in an indictment as a charge for the crime itself. 5 Ruling Case Law, 1063. This conclusion finds support in the recent decision of the Supreme Court, in which it held that a conspiracy to commit a crime under section 37 of the Criminal Code may be prosecuted even though the time for prosecution of the crime itself has expired, if limitation under the conspiracy section has not elapsed. Justice Pitney, in *U. S. vs. [26] William Rabinowich*, filed June 1, 1915, uses this language:

“It is apparent from a reading of section 37 *Crim. Code* (Sec. 5540 *Rev. Stat.*), and has been repeatedly declared in decisions of this Court, that a conspiracy to commit a crime is a different offense from the crime that is the object of the conspiracy. *Callen v. Wilson*, 127 *U. S.* 540, 555; *Clune v. United States*, 159 *U. S.* 590, 595; *Williamson v. United States*, 207 *U. S.* 425, 447; *United States v. Stevenson* (No. 2), 215 *U. S.*



200, 203. And see *Burton v. United States*, 202 U. S. 344, 377; *Morgan v. Devine*, No. 685, decided this day. The conspiracy, however, fully formed may fail of its object, however earnestly pursued; the contemplated crime may never be consummated; yet the conspiracy is none the less punishable. *Williamson v. United States*, supra. And it is punishable as conspiracy, though the intended crime be accomplished. *Heike v. United States*, 227 U. S. 131, 144.”

In the same case, the Court says:

“\* \* \* a conspiracy to commit an offense made criminal by the Bankruptcy Act is not of itself an offense ‘arising under’ that Act within the meaning of section 29d, and hence the prosecution is not limited by that section.”

This was a prosecution under a charge of conspiracy to violate Sec. 29d of the Bankruptcy Act in which the indictment must be returned within a year. The indictment was not returned until after the expiration of a year, and the Court concluded that the conspiracy being the gist of the action that the limitation to apply was not under the bankruptcy provision which it was conspired to violate, but the limitation which applied to section 37, supra.

Section 11 of the act of 1882, as amended by the act of 1884, denounces the bringing into the United States of Chinese. Section 13 of the same act excepts from the general provisions, diplomatic and other officers of the Chinese government, with their servants, and other exceptions appear by the act. The act of 1888 designates certain ports for admis-

sion of Chinese, and rule I of the regulation of the department of labor, governing the admission of Chinese, contains a further provision relating to the entry of Chinese into the United States through Canada, requiring an examination at Vancouver [27] for entry at Sumas, the place charged for operation, and other places named. The allegations in the indictment, I think, bring the indictment within the rule of pleading, to fully advise the defendants of every fact which the Government is required to set out. An indictment charging the unlawful bringing into the country of Chinese aliens, manifestly would be insufficient unless it set out the facts with the particularity contended for by the defendant, and such contention is supported uniformly by authority. It is in this respect that the indictment differs from the authorities which have been presented by the defense, and which brings this indictment within the holding of the Court of Appeals of this Circuit, in *Wong Din v. U. S.*, 135 Fed. 702.

The motion is denied.

JEREMIAH NETERER,

Judge.

[Indorsed]: Opinion on Motion in Arrest of Judgment. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. July 1, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [28]

*In the District Court of the United States for the  
Western District of Washington, Northern Di-  
vision.*

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

H. J. DAHL et al.,

Defendants.

**Sentence of H. J. Dahl.**

Comes now on this 1st day of July, 1915, the said defendant H. J. Dahl, into open court for sentence, and being informed by the Court of the indictment herein against him and of his conviction of record herein, he is asked whether he has any legal cause to show why sentence should not be passed and judgment had against him, he nothing says save as he before hath said.

Wherefore, by reason of the law and the premises, it is considered by the Court that the said defendant H. J. Dahl, be punished by being imprisoned in the United States Penitentiary at McNeil Island, or in such other place as may be hereafter provided for the imprisonment of offenders against the United States, for the term of fifteen months on each count, to run concurrently, at hard labor, from and after this date. And the said Defendant H. J. Dahl, is now hereby ordered into the custody of the United States Marshal to carry this sentence into execution.

Dated July 1, 1915.

Judgment and Decree 2, page 30. [29]

[Stipulation Extending Time to Aug. 1, 1915, to  
Prepare, etc., Proposed Bill of Exceptions.]

*United States District Court, Western District of  
Washington, Northern Division.*

No. 2976.

UNITED STATES OF AMERICA

vs.

HARRY J. DAHL,

Defendant.

It is stipulated that the defendant may have to and including the 1st day of August, 1915, to prepare and serve upon the United States Attorney his proposed bill of exceptions on writ of error herein.

CLAY ALLEN,

United States Attorney.

GORDON & EASTERDAY and

E. C. MacDONALD,

Attorneys for Defendant.

[Indorsed]: Stipulation Extending Time to Serve Proposed Bill of Exceptions. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. July 9, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [30]

*In the District Court of the United States for the  
Western District of Washington, Northern Di-  
vision.*

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRY J. DAHL,

Defendant.

**Stipulation [for Withdrawal of Government's  
Exhibits Nos. 3 and 4, etc.].**

It is hereby stipulated and agreed by and between the undersigned respective counsel for the plaintiff and defendant above named, that the United States Attorney may withdraw Government's Exhibits Numbers 3 and 4 and substitute therefor copies, certified to by the Acting Commissioner of Immigration at Seattle, Washington, which shall stand and be taken for the originals in all respects.

Dated at Seattle this 28th day of July, 1915.

ALBERT MOODIE,

Attorney for Plaintiff.

GORDON & EASTERDAY,

E. C. MacDONALD,

Attorneys for Defendant.

[Indorsed]: Stipulation. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. July 28, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [31]

*United States District Court, Western District of  
Washington, Northern Division.*

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRY J. DAHL,

Defendant.

**Order [Allowing Withdrawal of Plaintiff's Exhibits  
Nos. 3 and 4, etc.].**

Upon the stipulation of counsel for the respective parties above named, this date filed in court;

IT IS HEREBY ORDERED, that the Government may withdraw Plaintiff's Exhibits Numbers 3 and 4, and substitute therefor copies thereof, certified to by the acting commissioner of immigration at Seattle, Washington, which said copies shall stand and be taken for the originals in all respects.

Done in open court this 28th day of July, 1915.

JEREMIAH NETERER,

United States District Judge.

Received the above exhibits this 28th day of July, 1915.

ALBERT MOODIE.

O. K.—E. C. MacDONALD,

Atty. for Deft.

[Indorsed]: Order. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. July 28, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [32]

*United States District Court, Western District of  
Washington, Northern Division.*

UNITED STATES OF AMERICA

vs.

HARRY J. DAHL,

Defendant.

**Stipulation [and Order Extending Time to August  
10, 1915, to Prepare, etc., Proposed Bill of  
Exceptions].**

It is stipulated that the defendant may have to  
and including the 10th day of August, 1915, to pre-  
pare and serve upon the United States attorney his  
proposed bill of exceptions on writ of error herein.

ALBERT MOODIE,

Asst. U. S. Attorney.

GORDON & EASTERDAY,

E. C. MacDONALD,

Attorneys for Defendant.

On reading and filing the foregoing stipulation,  
the same is hereby approved.

Done in open court this 30th day of July, 1915.

JEREMIAH NETERER,

Judge.

[Indorsed]: Stipulation. Filed in the U. S. Dis-  
trict Court, Western Dist. of Washington, Northern  
Division, July 30, 1915. Frank L. Crosby, Clerk.  
By E. M. L., Deputy. [33]

[Order Extending Time for Filing Amendments to  
Bill of Exceptions.]

*In the District Court of the United States for the  
Western District of Washington, Northern Di-  
vision.*

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRY J. DAHL et al.,

Defendants.

For satisfactory reasons appearing to the Court, and upon motion of counsel for the respective parties hereto, the term and time for filing any supplemental amendments to the bill of exceptions herein, and for filing petition for writ of error herein is hereby extended into the November, 1915, term.

Done in open court this 1st day of November, 1915.

JEREMIAH NETERER,

United States District Judge.

[Indorsed]: Order Extending Term. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Nov. 1, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [34]



*United States District Court, Western District of  
Washington, Northern Division.*

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRY J. DAHL,

Defendant.

**Bill of Exceptions.**

BE IT REMEMBERED, That upon the 19th day of March, 1915, an indictment was returned in the above-entitled court charging the defendant Harry J. Dahl and one William A. McGee with having violated section eleven of the act of Congress of May 6, 1882, as amended and added to by the act of July 5, 1884.

That thereafter the defendant Dahl, appearing separately, interposed a demurrer to the said indictment. Thereafter said demurrer was by the Court overruled, to which ruling the defendant excepted and his exception was allowed.

That on the 3d day of June, 1915, this cause came on for trial before the Honorable Jeremiah Neterer, Judge, presiding, and a jury; that the United States moved for and was granted a separate trial as to the defendant Dahl. That upon said trial Messrs. Clay Allen, United States Attorney, and Albert Moodie, Assistant United States Attorney, appeared for the plaintiff, and Messrs. Gordon & Easterday and E. C. MacDonald appeared for the defendant Dahl.

Thereupon the following proceedings occurred. Witnesses on behalf of the United States were produced, sworn and testified as follows:

[**Testimony of Fred C. Jenkins, for Plaintiff.**]

FRED C. JENKINS.

Mr. GORDON.—I object to the introduction of any evidence in this case upon the ground that the indictment, nor any count thereof, does not state facts sufficient to constitute any offense or crime against the United States.

The COURT.—Objection overruled. Exception allowed.

Mr. JENKINS.—The Chinese that were arrested were given the regular [35] hearing accorded Chinese who are found in the United States without inspection. I did not make the examination; I was present when it was made and made a search of the Chinese when they were caught, and found no certificates on them. We found a few letters on them, addressed to them in Vancouver or other places in British Columbia. We found with one exception their clothes all bore Canadian labels. Chin Pooh had clothes bearing the trade-mark of a Portland, Oregon, firm; his hat, overcoat and all clothes bore the trade-mark of a Portland, Oregon, firm; all the others had Canadian trade-marks on their clothes, and all documents we found in their possession went to show that the Chinese came from Canada; everything they had in their possession came through Canada, except in the case of this one Chinaman. I saw them here yesterday and now recognize them as being the same men arrested in that car that night

(Testimony of Fred C. Jenkins.)

with Dahl and McGee. One was Chin Poo, Lum Moon and another, Chin Tie; I don't believe I could recall the other fellow's name without referring to the record. A board of inquiry was held on these Chinese. I made a report to my superior officer, and that investigation resulted in the indictment by the Grand Jury. These Chinamen were kept in my immediate custody after the arrest as near as I can remember for probably four or five days, and then they were taken to Seattle.

**[Testimony of B. A. Hunter.]**

I am an immigration inspector at present in Spokane. I was stationed at Everson, Washington, from about December 30 to the middle of March, 1915. I am not personally acquainted with Dahl or McGee. I have seen them before on the occasion of the arrest of four Chinese in an automobile on a bridge at Everson. I recognize these as the identical Chinese arrested on February 23, 1915, between 9 and 10 P. M. The defendants and Chinese were taken then to Sumas and placed in the Detention Home. [36]

**[Testimony of J. L. Zerwig.]**

J. L. ZERWIG.

I am inspector in charge of the Vancouver jurisdiction having Chinese matters under my control. I recognize these four Chinese at the railing; saw them at Sumas, Washington, on February 24 or 25, 1915. I had charge of the inspection. The duties are assigned to the subordinate officers; I have supervision of the examination. The records of my office do not

(Testimony of J. L. Zerwig.)

show any application on the part of Chin Kye, Chin Pooh, Wing Hung or Lum Moon, or record of their having offered to apply to my office for an examination required by the Chinese exclusion act of Chinese persons who wish to enter the United States. I was furnished information in regard to these Chinese being arrested and with their names. I will explain that we have what is known as our Chinese Division, which handles Chinese applicants for admission to the United States who arrive from China on trans-Pacific vessels. We also handle applicants from Canada direct, who are residents of Canada, and we have our foreign procedure, and it was under the foreign procedure that these four Chinese were handled. There is no record of their having applied in the regular manner. I am the official custodian of the records, which comprise a transcript of the testimony given in each case of the exempting questions. We have a card index being simply a record of admission into my district from outside points through some port of entry in my district; and in addition to that we have what we call the old records from Richmond, Fremont, Malone and Boston which were transferred. My district and duties embrace the landing of Chinese from oriental ports landing in Canada and seeking to enter the United States from Canada, and those who come by land from any other place to the United States and attempt to enter through my district, which includes Vancouver, Victoria, Blaine and Sumas. No other point has been designated by the Secretary of Labor as a port of

(Testimony of J. L. Zerwig.)

admission for aliens. My [37] office covers the admission of all aliens as well as Chinese. Chinese must pass the immigration test, and must be examined first under the United States immigration law. There is no record showing that these four Chinese ever made application as aliens or Chinese. I received a telephone message to come down and hold a hearing to give these four Chinese an opportunity to establish their right to admission to the United States under the immigration laws.

Q. What did you find in regard to each of these four Chinese?

Mr. GORDON.—Objected to as incompetent, irrelevant, immaterial and not the best evidence. Objection overruled; exception allowed.

A. I found the Chinese had never made application for admission and requested the Secretary of Labor to issue a warrant of arrest.

Q. In regard to this particular hearing, whether that was under the Chinese immigration law as to aliens.

Mr. GORDON.—I object to that as being incompetent, irrelevant and immaterial; objection overruled; exception allowed.

A. Under the immigration law.

Q. Now, this hearing you have just testified to was held under the immigration law prior to the time of the receipt of warrant of arrest?

Mr. GORDON.—I object to that as immaterial and not the best evidence; objection overruled; exception allowed.

(Testimony of J. L. Zerwig.)

A. Yes, sir. The preliminary hearing on which I based my application for warrant of arrest, and which warrant was received in due course of mail.

Q. I show you paper which I will ask be marked Plaintiff's Exhibit 3, and ask you if that is the warrant of arrest you received in this case.

Mr. GORDON.—Same objection. Objection overruled; exception allowed.

A. This is the warrant of arrest I received from the assistant Secretary of Labor. [38]

Q. This warrant of arrest, is this the next step after your report of the hearing is forwarded to Washington? A. It is.

Mr. GORDON.—It may be considered all under the same objection before saved?

The COURT.—Yes.

A. And under that warrant you held another hearing?

A. I held a regular hearing under the warrant of arrest, under the immigration law.

Q. And what was your finding?

Mr. GORDON.—Same objection; same ruling; exception allowed.

A. That they didn't have the right to enter the United States and recommended that a warrant of deportation be issued.

Q. And did you receive a warrant of deportation?

A. I did receive a warrant of deportation through the mail, in the regular channel.

Mr. MOODIE.—Offer that in evidence.

Mr. GORDON.—Objected to as being immaterial.

(Testimony of J. L. Zerwig.)

Q. This warrant of deportation is the next step after the warrant of arrest and hearing?

A. It is.

Mr. MOODIE.—I offer them both in evidence.

Mr. GORDON.—Make the same objection; incompetent and not the best evidence. Objection overruled; exception allowed.

Q. At the time of those hearings did the Chinese present any chopk choes or certificates entitling them to be in the United States? Objected to; objection overruled; exception allowed.

A. They did not. In answer to my question to the four if they had any authority to be in the United States they said they hadn't, each and every one.

Mr. GORDON.—I move to strike the answer. Motion denied; exception allowed.

Q. What is the present status of these Chinese, in regard to what is going to be done?

Mr. GORDON.—Objected to as calling for a conclusion. [39]

The COURT.—Objection overruled. Exception allowed.

A. They are under order of deportation to China.

Cross-examination.

By Mr. GORDON.—Q. These various hearings which you have testified to concerning the right of these Chinamen to be in the United States, or the right to have them deported, were proceedings conducted under your office,—office of Internal Revenue, Department of Labor? A. They were.

Q. Not any part of the judiciary, and neither Dahl nor McGee were parties? A. No.

## [Testimony of Moy Don Shing.]

## MOY DON SHING.

I am the official Chinese interpreter of the United States at Vancouver, in the immigration office under Mr. Zerwig. I saw the four Chinese in court yesterday. I acted as official interpreter at Vancouver and Sumas for Mr. Zerwig in making the translation of the language to the stenographer; and interpreted fairly and truthfully in translating from Chinese to English for the stenographer at the hearing on February 26, 1913.

Plaintiff rests.

Mr. GORDON.—At this time we ask the Court to withdraw from the consideration of the jury all matters relating to counts one and two of the indictment. I do not think the Government will object to that in view of the opening statement of Mr. Moodie.

The COURT.—Motion denied; exception allowed.

Mr. GORDON.—We move at this time that the Court direct a verdict for the defendant Dahl upon the ground that the indictment is insufficient to charge a crime against the United States and there is no evidence sufficient to go to the jury on the indictment.

The COURT.—Denied. Exception allowed.

Mr. GORDON.—We rest; and now renew our motion for a directed verdict on the grounds stated in the last motion.

The COURT.—Motion denied and exception allowed. [40]

The jury returns its verdict which is read.



(Testimony of Moy Don Shing.)

Mr. MacDONALD.—Before filing the verdict I move for judgment *non obstante veredicto* on the ground that the indictment does not state facts sufficient to constitute a crime on any or either of the counts therein, and that the evidence does not justify the verdict upon any one of the counts.

The COURT.—If the purpose is to prevent the filing of the verdict that will be denied. The verdict will be filed.

Mr. MacDONALD.—I understand that that motion has to be made before the filing of the verdict,—that is the object.

The COURT.—The verdict will be filed.

Mr. MacDONALD.—It is our state practice to require the making of this motion before the filing of the verdict. We also move for an arrest of judgment upon the same grounds.

The COURT.—In view of the statement of counsel, I will take up these motions later. Will you file any other motions?

Mr. MacDONALD.—We will file a motion for a new trial; but we want to make the formal record at this time.

The COURT.—I will take up those motions later.

Thereafter the said motion for judgment *non obstante veredicto* and in arrest of judgment were denied by the Court, and exceptions severally to such decisions were made and allowed.

Thereafter defendant filed and served his motion for new trial, which was denied by the Court; defendant being allowed an exception to such ruling of the Court.

Thereafter the Court proceeded to and did pass sentence upon the said defendant Dahl.

In pursuance of justice and that right may be done the defendant Dahl presents the foregoing as his bill of exceptions and prays that the same may be settled, allowed, signed and certified as provided by law.

GORDON & EASTERDAY,  
ERNEST C. MacDONALD,

Attorneys for Defendant Dahl. [41]

It is stipulated that the foregoing bill of exceptions is correct in all respects and as such may be by the Court approved, allowed and settled as the bill of exceptions in said cause, and as such filed in said cause and made a part of the record in said cause. Reserving the right to file a supplemental bill in the event the same may be required.

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Assistant United States Attorney,  
GORDON & EASTERDAY,  
E. C. MacDONALD,

Attorneys for Defendant Dahl.

The foregoing bill of exceptions is correct, in all respects, and is hereby approved, allowed and settled, and made a part of the record herein.

Done in open court this — day of August, 1915.

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Judge.

[Indorsed]: Bill of Exceptions. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. Oct. 6, 1915. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy. [42]

*United States District Court, Western District of  
Washington, Northern Division.*

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRY J. DAHL,

Defendant.

**Plaintiff's Amendments to Defendant's Proposed  
Bill of Exceptions.**

Comes now the plaintiff herein, United States of America, and submits the following amendments and additions to defendant's proposed bill of exceptions, praying that same may be made part of said bill as finally settled, allowed, signed and certified.

Page 1, paragraph 1: The indictment charged defendants with violating section 37 of the Penal Code, Conspiracy to violate section 11 of the Chinese Exclusion Act,—a conspiracy to smuggle Chinese aliens into the United States,—and they were not charged with having violated section 11 of said Exclusion Law, which is the consummated offense. Change proposed bill accordingly.

Page 1, next to last line: Insert after "Mr. Jenkins," "Testified that he knew Dahl personally and met him a few times in Sumus prior to the arrest, specifying January 15th in the Mt. Baker Hotel as one occasion.

Page 2: Change period at end of line 4 to semicolon, and add, "nor did I find upon them any evi-

dence whatever of authority for their being in the United States." [43]

Page 3, first line: The name of the witness was Zurbrick. The same error occurs later. The names of the alien Chinese were Chin Poo, Chin Tai, Wong Hong, Lom Moon.

Page 5, line 22: Change to read, "Objection overruled. Plaintiff's exhibits three and four admitted. Exception allowed." [44]

The following additions should be made to the proposed bill of exceptions. (Which fully include all matters appearing after line 16, page 6, of the proposed bill.)

After the testimony of Moy Don Shing, the interpreter, insert:

CHIN POO testified he was born in China, Sun Wooey district, and came to America about ten years ago, landing in Canada at Victoria; had never been in the United States before this one time; lived continuously in Canada since arrival from China; never formally examined nor admitted to the United States.

Q. Have you any certificate of any kind entitling you to enter the United States?

The COURT.—If he was never in the United States and never examined, what is the use of taking time?

I was arrested about February 22, 1915, in the northern part of this State in company with these three boys sitting there at the rail and two white men, all of us being in an automobile. I have known the first boy in [45] Vancouver, B. C., about one

year; the next about four months; and the third for the past few months. I rode the electric car from Vancouver, to Chilliwack and met the three Chinese boys there, then we all walked across the boundary line, and later got into the automobile and rode until we were arrested.

Mr. MOODIE.—You may cross-examine.

Mr. GORDON.—No questions; to save time.

Counsel for plaintiff then called one of the remaining three Chinese to the witness-stand.

The COURT.—Are you going to offer these?

Mr. MOODIE.—Yes. I intend to prove by each of them that he is inadmissible and is present in the United States in violation of law.

The COURT.—There is no occasion for it.

Mr. GORDON.—It is subject to the same objection. We will admit that each of the remaining three witnesses would testify the same as the witness Chin Poo, to save time.

Mr. MOODIE.—Let the record show, Mr. Stenographer, that defendant admits that the witnesses Chin Tai, Lom Moon and Wong Hong would testify to the same effect that Chin Poo has, i. e., that they were born in China; came to America and landed in Canada; that they remained continuously in Canada since arrival from China; that they have never been formally examined or admitted to the United States; and have no certificates of any kind entitling them to be, enter or remain in the United States; that they have never applied for admission, and entered surreptitiously.

Mr. GORDON.—Subject to the objection, with an exception. [46]

The COURT.—Yes.

Counsel for defendant then moved the Court to withdraw from the jury's consideration Counts I and II (overt acts pursuant to conspiracy, charged dates January 15th and February 3d, no arrests made), and argued at length. The motion was denied and exception allowed.

Counsel then moved for a directed verdict for defendant Dahl on the ground of insufficiency of indictment and insufficiency of evidence. Motion denied; exception allowed.

Counsel for defendant then rested his case, waiving the right to introduce any evidence in defense, and renewed his motion for directed verdict on the grounds stated in the last motion. Denied; exception.

Argument to the jury was waived by both sides; the jury was instructed. No exceptions to the charge, save by counsel for defendant who excepted to the Court's failure to direct a verdict.

After the jury had retired counsel for defendant Dahl stated, in the event of an adverse verdict he wished to present a brief argument upon a motion for arrest of judgment; and in the alternative for a new trial. The Court stated that such motion would be heard on a regular motion day.

The jury returned. Counsel for defendant moved for a directed verdict *non. obs. v.*, on the ground of insufficiency of indictment, and insufficiency of evidence. This motion was made before reading of verdict.

The COURT.—If the purpose is to prevent the filing of the verdict that will be denied. The verdict will be [47] filed. The verdict of guilty on all counts was then read and filed.

Mr. McDONALD.—I understand that motion has to be made before the filing of the verdict; that is the only object.

The COURT.—The verdict will be filed.

Mr. McDONALD.—That is our practice in the State courts, that the motion has to be made before reading the verdict. We also move upon the same grounds in arrest of judgment.

The COURT.—In view of counsel's statements I will take up these motions—will you file any other motions?

Mr. McDONALD.—I think we will file a motion for new trial; but we just want to get the formal record at this time.

The COURT.—I will take up the motions later. The defendant will be remanded until it is determined whether the bond is sufficient.

Thereafter the said motions for judgment *non obstante veredicto* and in arrest of judgment and for new trial were denied by the Court, and exceptions severally to such decisions were made and allowed.

Thereafter defendant filed and served his motion for new trial, which was denied by the Court; defendant being allowed an exception to such ruling of the Court.

Thereafter the Court proceeded to and did pass sentence upon the said defendant Dahl.

The various motions for directed verdict on the

ground of insufficiency of evidence to support the verdict requires the bill of exceptions to bring up the total [48] evidence and matters occurring at the trial. Besides the foregoing witnesses there was the following testimony:

FELIX MAINZER, testified that he knew defendant Dahl since 1902, when they worked together. That he runs an automobile for hire and about January 1, 1915, took Dahl from the Palace Hotel, Seattle, to an apartment house on First Avenue, North, and Thomas Street. On the way out Dahl proposed that witness join him in making easy money smuggling Chinese at \$175 each. Witness refused point blank, but introduced Dahl to defendant McGee (his driver) the next day and McGee took the proposition up, so advised Mainzer and made a deal for Mainzer's car at \$100 a trip, Mainzer to stand running expenses.

About the 15th of January witness drove Dahl out to Columbia City to find McGee and heard them speak of leaving that night. Next saw McGee and the car some five days later, when McGee paid him for use of car, stating that he and Dahl took five Chinese from up country to Tacoma, thence to Portland on train. About three weeks later McGee told witness he was going to make another trip; on returning, said he was with Dahl smuggling Chinese. Had been away some five days; didn't say how many Chinese he took. Settled for use of car and suggested that it be repaired in view of another trip. Told witness how much he made on the trip. After the second trip, some two or three weeks, McGee told



witness he was taking the car for another trip with Dahl. Learned later of the arrest.

McGee told witness Dahl stowed the Chinese in the basement of his house in Tacoma on the second trip. [49]

WILLIAM A. MCGEE, corroborated the testimony of Mainzer in regard to meeting Dahl and entering into the conspiracy. First trip: Mainzer brought Dahl to witness at Columbia City and Dahl wanted to leave that night to bring in Chinese. By agreement witness left for Sumas and Dahl for Vancouver, returning to Sumas the next day where he met witness in the Mt. Baker Hotel, in which were stowed away five Chinese. The Chinese were taken out about 6 P. M. and Dahl and McGee drove them in the automobile to Tacoma; thence to Portland by train, where Dahl delivered the Chinese and got paid, saying he got \$100 each. Dahl paid witness \$303, of which sum witness paid Mainzer on his return \$79, having paid out \$21 expense on car.

On the second trip, about February 3, 1915, Dahl came to Seattle and looked witness up, and left for Vancouver, instructing witness to meet him in Bellingham with the car; picked Dahl up at Bellingham per agreement and left for Sumas. Dahl left the car a short distance outside Sumas, where McGee picked him up with six Chinese a short while later. The car was then driven to Tacoma; the party then went to Portland by train and Dahl delivered the Chinese, and returned to Tacoma with McGee, paying him \$412, and parting with the understanding

that he might look witness up again. McGee settled with Mainzer.

Third trip: On February 18, 1915, Dahl phoned witness from Tacoma to go to Bellingham and wait for him; that Dahl would leave that night for Vancouver. Witness waited four days in Bellingham, then went to Vancouver and found Dahl at the Woods Hotel, and returned with him to Bellingham [50] on train. Both got into auto and went towards Sumas. Dropped Dahl on road outside Sumas and went into Sumas for gas. Returning, found Dahl and four Chinese on the roadside. They got into the car about 8:00 P. M. and the auto was headed for Tacoma. The auto was halted on the road at the Everson bridge and the entire party arrested by United States Immigration men, and taken into Sumas.

“Mainzer’s part in the deal consisted simply in suggesting Dahl’s proposition to me and in letting me have his car when I wanted it. In each instance he knew I was going out to help Dahl smuggle Chinese. He originally wanted me to split 50-50 but we compromised on \$100 per trip, car expenses to be paid by Mainzer. I told him about each trip; he suggested that I look Dahl up and see if we couldn’t make some more trips and money.”

Mrs. WILLIAM A. McGEE, testified that she was the wife of defendant, William Albert McGee and resided in West Seattle, her husband’s father being a guest in her house. That about 8:00 P. M. on or about the 2d of March, 1915, while “Billy” was in jail defendant Dahl came to her house and left a let-

ter with her (admitted as "Plaintiff's Exhibit 1") to be smuggled into jail and given her husband McGee. Dahl instructed her how to place the letter in the back of a photograph holder, or conceal it in her handkerchief, on a visit to the jail. A day or two previous to Dahl's visit she found a card under her door in Dahl's handwriting saying, "Mrs. McGee. Been over a couple of times and you were not at home. I will be here to-morrow evening by eight o'clock. Harry." That she remained home that evening and met Dahl at 8:00 P. M., her [51] father-in-law being present, and saw Dahl, the letter he delivered, and heard the talk. He tried to help his daughter read the letter after Dahl left. Later Dahl returned and called at the house and asked witness if she had given the letter to Billy. She said "No, I destroyed it." Dahl said "Are you sure you did?" "If anyone else got hold of that there would be trouble." Dahl then asked her to meet him down town and she promised to, but didn't keep the date.

Witness identified "Plaintiff's Exhibit 1" as the letter in question.

A. J. McGEE, Sr., testified he was the father of defendant McGee, and then corroborated the evidence of Mrs. William A. McGee next above, adding that Dahl on asking about the delivery of the letter appeared agitated about McGee's welfare.

T. S. SCHLUTER, testified that he found a pocketbook about half a mile west of Sumas on the trial, about 125 yards south of the Canadian boundary after the arrest of the defendants. This pocket-

book and contents was admitted as Plaintiff's Exhibit 7 and 8.

J. A. LOCHBAUM testified he had known Dahl three years; about 5 P. M. the day before Dahl's arrest witness saw him walking north over the trail leading to Schluter's home. Witness was driving his automobile and stopped to ask Dahl to ride with him. Dahl refused, saying he would walk in. On being urged to ride, Dahl simply shook his head and walked off. The meeting place was this side of the line and Dahl was not [52] drunk.

O. G. BURNS, testified that he runs the Mt. Baker Hotel Cafe at Sumas and on January 20th-25th, a white man came in and got six or eight meals to be sent to room 8. Witness delivered the meals, setting the tray on the dresser, no one being in sight in the room.

LLOYD B. BEELER, testified that he runs the Mt. Baker Hotel at Sumas and was tending bar on January 22, 1915, when Dahl came in and registered for room 8 and got key. Dahl only registered for room 8 but Dahl told him the next afternoon "not to bother about making up them rooms." Beeler was trying to get into room 9 at the time when Dahl, who was lying in room 8 got up and spoke to Beeler as he was trying the knob of room 9.

"Plaintiff's Exhibit 6" admitted, being hotel register sheets.

RUSS TYNER, testified he was a liveryman at Sumas and that he had known Dahl three years. About January 15, 1915, Dahl came to rent an auto, stating his wife or child was sick and he wished to

go to Seattle. Tyner said it would cost \$100 or \$125, but could not get anyone to make the trip on account of the bad roads.

Various witnesses testified to having seen the big red Pierce-Arrow car and its short driver several times at and around Sumas and Bellingham on the dates in question. Among them was C. E. Gilbert, proprietor of the Sumas Garage where the car was stored on each of the three trips. [53]

In pursuance of justice and that right may be done, the United States of America submits the foregoing amendments and additions to defendant's proposed Bill of Exceptions, praying that same may be settled, allowed, signed and certified as provided by law.

CLAY ALLEN,

United States Attorney.

ALBERT MOODIE,

Assistant United States Attorney.

[Endorsed]: Plaintiff's Amendments to Defendant's Proposed Bill of Exceptions. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. Oct. 6, 1915. Frank L. Crosby, Clerk. By Ed. S. Lakin, Deputy. [54]

*In the District Court of the United States for the  
Western District of Washington, Northern Divi-  
sion.*

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRY J. DAHL,

Defendant.

**Order Settling Bill of Exceptions.**

Now, on this 21st day of October, 1915, the above cause came on for hearing on the application of the defendant to settle the bill of exceptions in this cause, counsel for both parties appearing and it appearing to the Court that defendant's proposed bill of exceptions was duly served within the time provided by law and that the plaintiff's proposed amendments were also served within the time provided by law and the Court having heard counsel and being advised:

Adopts the bill as proposed by the defendant together with the amendments proposed by the plaintiff and it appearing to the Court that said bill of exceptions, as proposed by defendant, taken in connection with the amendments proposed by the plaintiff and hereby adopted contains all of the material facts occurring upon the trial of said cause, together with the exceptions thereto and all of the material matters and things occurring upon the trial, except the exhibits introduced in evidence which are hereby made a part of said bill of exceptions and the clerk

of this court is hereby ordered and instructed to attach the same hereto.

Ordered that said proposed bill of exceptions, together with said amendments be and the same is hereby settled as a true bill of exceptions in said cause and the same is hereby certified accordingly by the undersigned, Judge of this court who presided [55] at the trial of said cause as a true, full and correct bill of exceptions and the clerk of this court is hereby ordered to file the same as a record in said cause and transmit the same to the Honorable Circuit Court of Appeals for the Ninth Circuit.

JEREMIAH NETERER,  
Judge.

[Indorsed]: Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. Oct. 21, 1915. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy. [56]

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*United States District Court, Western District of  
Washington, Northern Division.*

No. 2976.

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

HARRY J. DAHL,  
Defendant.

**Petition for Writ of Error.**

To the Honorable JEREMIAH NETERER, Judge  
of the United States District Court for the  
Western District of Washington:

Comes now the above-named defendant and respectfully shows: That on the 4th day of May, 1915, a jury duly empanelled in the above-entitled cause found a verdict of guilty against the defendant upon the indictment herein; that thereafter and on the 1st day of July, 1915, final judgment was made and entered herein whereby it was adjudged that the said defendant be imprisoned in the United States penitentiary at McNeill's Island for the period of fifteen months.

That on said judgment and the proceedings had prior thereunto in this cause certain errors were committed to the prejudice of the said defendant, all of which will more in detail appear from the assignment of errors which is filed herewith.

Your petitioner, said defendant, feeling himself aggrieved by said verdict and judgment entered thereon as aforesaid, herewith petitions this Honorable Court for an order allowing him to prosecute a writ of error to the United States Circuit Court of Appeals for the Ninth Circuit under the rules of said court in such cases made and provided.

Wherefore your petitioner, said defendant, prays that a writ of error issue in this behalf to the United States Circuit Court of Appeals for the Ninth Circuit aforesaid, for the correction of errors so complained of, and that a transcript [57] of the rec-



ord, proceedings and papers in this cause, duly authenticated, may be sent to the said Circuit Court of Appeals.

GORDON & EASTERDAY,  
Attorneys for Defendant Dahl.

Service of the foregoing petition and the receipt of a copy thereof is hereby admitted this 30th day of Nov., 1915.

MOODIE,  
Assistant United States Attorney.

[Indorsed]: Petition for Writ of Error. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. Nov. 30, 1915. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy. [58]

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*United States District Court, Western District of  
Washington, Northern Division.*

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRY J. DAHL,

Defendant.

**Order Allowing Writ of Error.**

Now on this 30th day of November, 1915, came the defendant and filed herein and presented to the Court his petition praying for the allowance of a writ of error intended to be urged by him, praying also that a transcript of the record and proceedings and papers upon which the judgment herein was rendered, duly authenticated, may be sent to the

United States Circuit Court of Appeals for the Ninth Circuit, and that such other and further proceedings may be had as may be proper in the premises.

Now, therefore, upon consideration of said petition and being fully advised in the premises, the Court does hereby allow the said writ of error.

And it is hereby ordered that a supersedeas and bail bond having been filed, all proceedings in this cause towards the execution of said judgment are hereby stayed until the determination of said writ of error by the said United States Circuit Court of Appeals.

And it is further ordered that the defendant, Harry J. Dahl, shall be released from custody pending the hearing and determination of said writ of error.

JEREMIAH NETERER,

Judge. [59]

Service of the within Order by delivery of a copy to the undersigned is hereby acknowledged this 30th day of Nov., 1915.

A. MOODIE,

Asst. Attorney for U. S.

[Indorsed]: Order Allowing Writ of Error. Filed in the U. S. Dist. Court, Western Dist. of Washington, Northern Division. Nov. 30, 1915. Frank L. Crosby, Clerk. By Ed M. Lakin, Deputy. [60]

*United States District Court, Western District of  
Washington, Northern Division.*

No. 2976.

UNITED STATES OF AMERICA

vs.

HARRY J. DAHL,

Defendant.

**Assignment of Errors.**

Comes now the defendant and files the following assignment of errors upon which he will rely upon his prosecution of writ of error herein to the United States Circuit Court of Appeals for the Ninth Circuit, from the judgment and sentence of the above-entitled court, entered herein on the 1st day of July, 1915.

1st. That the Court erred in overruling the demurrer of the defendant to the indictment, and holding that the same stated facts sufficient to constitute a crime against the United States.

2d. That the Court erred in holding and deciding over the objection of the defendant that the several counts of said indictment stated facts sufficient to constitute a crime against the United States.

3d. That the Court erred in holding and deciding over the objection of the defendant that said indictment was sufficient as a matter of law to permit the introduction of evidence thereunder against the defendant, and permitting over the objection of defendant evidence to be introduced thereunder.

4th. That the Court erred in refusing to with-

draw from the consideration of the jury counts one and two.

5th. That the Court erred in denying defendant's motion for a directed verdict in his favor on each of the counts of said indictment. [61]

5½th. That the Court erred in permitting the introduction of evidence in the following particulars:

Q. What did you find in regard to each of these four Chinese?

Mr. GORDON.—Objected to as incompetent, irrelevant, immaterial and not the best evidence. Objection overruled; exception allowed.

A. I found the Chinese had never made application for admission and requested the Secretary of Labor to issue a warrant of arrest.

Q. In regard to this particular hearing, whether that was under the Chinese immigration law as to aliens?

Mr. GORDON.—I object to that as being incompetent, irrelevant and immaterial; objection overruled; exception allowed.

A. Under the immigration law.

Q. Now, this hearing you have just testified to was held under the immigration law prior to the time of the receipt of warrant of arrest?

Mr. GORDON.—I object to that as immaterial and not the best evidence; objection overruled; exception allowed.

A. Yes, sir. The preliminary hearing on which I based my application for warrant of arrest and which warrant was received in due course of mail.

Q. I show you paper, which I will ask be marked Plaintiff's Exhibit 3, and ask you if that is the warrant of arrest you received in this case.

Mr. GORDON.—Same objection. Objection overruled. Exception allowed.

A. This is the warrant of arrest I received from the assistant Secretary of Labor.

Q. This warrant of arrest, is this the next step after your report of the hearing is forwarded to Washington? A. It is. [62]

Mr. GORDON.—It may be considered all under the same objection before saved.

The COURT.—Yes.

A. And under that warrant you held another hearing?

A. I held a regular hearing under the warrant of arrest, under the immigration law.

Q. And what was your finding?

Mr. GORDON.—Same objection; same ruling; exception allowed.

A. That they didn't have the right to enter the United States and recommended that a warrant of deportation be issued.

Q. And did you receive a warrant of deportation?

A. I did receive a warrant of deportation through the mail, in the regular channel.

Mr. MOODIE.—Offer that in evidence.

Mr. GORDON.—Objected to as being immaterial.

Q. This warrant of deportation is the next step after the warrant of arrest and hearing?

A. It is.

Mr. MOODIE.—I offer them both in evidence.

Mr. GORDON.—I make the same objection,—incompetent and not the best evidence. Objection overruled; exception allowed.

Q. At the time of those hearings did the Chinese present any chopk chees or certificates entitling them to be in the United States? Objected to; objection overruled; exception allowed.

A. They did not. In answer to my question to the four if they had any authority to be in the United States they said they hadn't, each and every one.

Mr. GORDON.—I move to strike the answer. Motion denied. Exception allowed.

Q. What is the present status of these Chinese, in regard to what is going to be done?

Mr. GORDON.—Objected to as calling for a conclusion.

The COURT.—Objection overruled. Exception allowed.

A. They are under order of deportation to China.

[63]

6th. That the evidence adduced on behalf of the plaintiff is insufficient to support the verdict of the jury or the judgment of the Court.

7th. That the evidence adduced on behalf of the plaintiff is insufficient to show or prove that the Chinese persons referred to in the indictment and in the evidence were not lawfully entitled to enter or be or remain in the United States.

8th. That the Court erred in not sustaining defendant's motion for a directed verdict, or for judgment *non obstante veridicto*, for the reason that the

names of the Chinese persons referred to in the indictment and in the evidence were known to the United States district attorney and to the grand jury previous to the return of the said indictment, and such names were not set forth in said indictment.

9th. That the Court erred in denying defendant's motion for judgment *non obstante veredicto*.

10th. That the Court erred in denying defendant's motion for a new trial.

11th. That the Court erred in denying defendant's motion for arrest of judgment.

12th. That the Court erred in pronouncing judgment against the defendant.

WHEREFORE, said defendant and plaintiff in error prays that the judgment of said Court be reversed, and that the Court be directed to sustain defendant's said motions, or either of them.

GORDON & EASTERDAY,  
Attorneys for Defendant. [64]

Service of the within Assignment of Errors by delivery of a copy to the undersigned is hereby acknowledged this 30th day of Nov. 1915.

MOODIE,  
Asst. U. S. Attorney.

[Indorsed]: Assignment of Errors. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Nov. 30, 1915. Frank L. Crosby, Clerk. By Ed M. Lakin, Deputy. [65]

*United States District Court, Western District of  
Washington, Northern Division.*

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRY J. DAHL,

Defendant.

**Bond [on Writ of Error].**

We, Harry Anderson, Wm. Conrad, Geo. O. Kelson, W. L. Ross, W. B. McElroy, V. J. McGrath and G. J. Heitz, jointly and severally acknowledge ourselves indebted to the United States of America in the sum of five thousand dollars lawful money of the United States of America, to be levied on our, and each of our goods, chattels, lands and tenements upon this condition;

Whereas the said Harry J. Dahl has sued out a writ of error from the judgment of the District Court of the United States for the Western District of Washington, Northern Division, in the case in said court wherein the United States of America is plaintiff and the said Harry J. Dahl is defendant for a review of said judgment in the United States Circuit Court of Appeals for the Ninth Circuit.

Now, if the said Harry J. Dahl shall appear and surrender himself in the District Court of the United States for the Western District of Washington, Northern Division, on and after the filing in the said District Court of the mandate of the said Circuit Court of Appeals, and from time to time thereafter



as he may be required to answer any further proceedings and abide by and perform any judgment or order which may be had or rendered therein in this case, and shall abide by and perform any judgment or order which may be rendered in the said United States Circuit Court of Appeals for the Ninth Circuit and not depart from said District Court without leave thereof then this obligation shall be void; otherwise to remain in full force and virtue. Witness our hands and seals this 1st day of July, 1915.

[66]

HARRY ANDERSON.

GEO. O. KELSON.

W. B. McELROY.

H J. DAHL.

WM. CONRAD.

W. L. ROSS.

V. J. McGRATH.

G. J. HEITZ.

Everett, Wn. [67]

United States of America,  
Western District of Washington,  
Northern Division,—ss.

Harry Anderson, each being first duly sworn, each on oath does say: I am a resident of Pierce County, Washington, and am worth the sum of \$2,000.00, in separate property, to wit: E. 1/2 Lot 24 and Lot 25, Block 5, Fletcher Heights Addn. to Tacoma, Washn., within this State over and above all debts and liabilities and exclusive of property exempt from execution.

HARRY ANDERSON.

Subscribed and sworn to before me this first day of July, A. D. 1915.

[Seal] EDWIN P. WHITING,  
Notary Public in and for the State of Washington,  
Residing at Seattle. [68]

United States of America,  
Western District of Washington,  
Northern Division,—ss.

Wm. Conrad.

Each being first duly sworn each on oath does say: I am a resident of Pierce County, Washington, and am worth the sum of \$3,500.00, in separate property—Lots 9 and 10, Block 16, McKinley Park Addn. to Tacoma, Wash., and 19 acres Canyon Co., Idaho, within this State over and above all debts and liabilities and exclusive of property exempt from execution.

WM. CONRAD.

Subscribed and sworn to before me this first day of July, A. D. 1915.

[Seal] EDWIN P. WHITING,  
Notary Public in and for the State of Washington,  
Residing at Seattle. [69]

United States of America,  
Western District of Washington,  
Northern Division,—ss.

George O. Kelson, being first duly sworn, on oath says: I am a resident of Pierce County, State of Washington, and am worth the sum of four thousand dollars in separate property, to wit: Interest in three lots at 6815 Park Avenue, Tacoma, and West

half of Block 16, Harriman's Addition to Warrenton, Clatsop County, State of Oregon, over and above all debts and liabilities and exclusive of property exempt from execution.

GEO. O. KELSON.

Subscribed and sworn to before me, this 1st day of July, A. D. 1915.

[Seal]

EDWIN P. WHITING,

Notary Public in and for the State of Washington,  
Residing at Seattle. [70]

United States of America,  
Western District of Washington,  
Northern Division,—ss.

W. L. Ross, ——, each being first duly sworn, each on oath does say: I am a resident of Pierce County, Washington, and am worth the sum of \$2,000 in separate property—Lots 1, 2, 3 and 4, Block 1, Bogle 1st Addn., Tacoma, Wash.—2 Tide flat lots in Tacoma, within this State over and above all debts and liabilities and exclusive of property exempt from execution.

W. L. ROSS.

Subscribed and sworn to before me this first day of July, A. D. 1915.

[Seal]

EDWIN P. WHITING,

Notary Public in and for the State of Washington,  
Residing at Seattle. [71]

United States of America,  
Western District of Washington,  
Northern Division,—ss.

W. B. McElroy, and ——, each being first duly

sworn, each on oath for himself does say: I am a resident of Snohomish County, Washington, and am worth the sum of \$2,000, in separate property, to wit, Lots 13 and 14, Block 450, in Everett, Wash., within this state over and above all debts and liabilities and exclusive of property exempt from execution.

W. B. McELROY.

Subscribed and sworn to before me this 1st day of July, A. D. 1915.

[Seal] EDWIN P. WHITING,  
Deputy Clerk U. S. District Court. [72]

United States of America,  
Western District of Washington,  
Northern Division,—ss.

V. J. McGrath, ——, each being first duly sworn, each on oath does say: I am a resident of King County, Washington, and am worth the sum of \$1,000, in separate property, to wit, Lot 6, Block 4, H. S. Turner Park Addn. to Seattle, within this State over and above all debts and liabilities and exclusive of property exempt from execution.

V. J. McGRATH.

Subscribed and sworn to before me this first day of July, A. D. 1915.

[Seal] EDWIN P. WHITING,  
Notary Public in and for the State of Washington,  
Residing at Seattle. [73]

United States of America,  
Western District of Washington,  
Northern Division,—ss.

G. J. Heitz, ——, each being first duly sworn,

each on oath does say: I am a resident of Pierce County, Washington, and am worth the sum of \$2,000, in separate property, Lots 3, 4 and 5, Block 6, Miller Lindahl's Addn. to Tacoma, within this State over and above all debts and liabilities and exclusive of property exempt from execution.

G. J. HEITZ.

Subscribed and sworn to before me this first day of July, A. D. 1915.

[Seal]

EDWIN P. WHITING,  
Notary Public in and for the State of Washington,  
Residing at Seattle.

Examined, and approved this first day of July, 1915.

WINTER S. MARTIN,  
Asst. U. S. Attorney.

Approved this 1st day of July, 1915.

JEREMIAH NETERER,  
United States District Judge.

[Indorsed]: Bond on Writ of Error. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. July 1, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [74]

**[Order Directing Transmission of Original Exhibits  
to Appellate Court.]**

*In the District Court of the United States for the  
Western District of Washington, Northern  
Division.*

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRY J. DAHL,

Defendant.

Upon stipulation of the plaintiff and defendant in the above-entitled cause, it is hereby ordered that the clerk of this court transmit to the United States Circuit Court of Appeals for the Ninth Circuit, as part of the record herein, all the exhibits introduced in evidence at the trial hereof in lieu of printed copies thereof.

Done in open court this 30th day of November, 1915.

JEREMIAH NETERER,

Judge.

O. K.—A. MOODIE,

Asst. U. S. Attorney.

[Indorsed]: Order to Transmit Exhibits. Filed in the U. S. District Court, Western Dist. of Washington. Nov. 30, 1915. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy. [75]

*In the United States Circuit Court of Appeals for  
the Ninth Circuit.*

No. 2976.

HARRY J. DAHL,

Plaintiff in Error,

vs.

UNITED STATES OF AMERICA,

Defendant in Error.

**Writ of Error [Copy].**

United States of America,  
Ninth Judicial Circuit,—ss.

The President of the United States of America: To  
the Honorable Judge of the District Court of  
the United States for the Western District of  
Washington:

Because in the record and proceedings, as also in  
the rendition of the judgment, of a plea which is in  
the said District Court before you, between the  
United States of America, as plaintiff, and Harry J.  
Dahl, as defendant, a manifest error hath happened,  
to the great damage of the said defendant, as by his  
complaint appears, we being willing that error, if  
any hath been, should be duly corrected, and full  
and speedy justice done to the party aforesaid in this  
behalf, do command you, if judgment be therein  
given, that then under your seal, distinctly and  
openly, you send the record and proceedings afore-  
said, with all things concerning the same, to the  
United States Circuit Court of Appeals for the  
Ninth Circuit, together with this writ, so that you  
have the same at the city of San Francisco, in the

State of California, on the 29th day of December, 1915, next, in the said Circuit Court of Appeals to be then and there held, that the record and proceedings aforesaid being inspected, the said Circuit Court of Appeals may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

WITNESS: The Honorable EDWARD D. WHITE, Chief Justice of [76] the United States of America, this 30th day of November, 1915.

[Seal] FRANK L. CROSBY,  
Clerk of the United States District Court for the  
Western District of Washington.

Allowed this 30th day of Nov., 1915, after plaintiff in error had filed with the clerk of this court with his petition for a writ of error his assignment of errors.

JEREMIAH NETERER,  
Judge of the District Court of the United States for  
the Western District of Washington.

Service of the within Writ by delivery of a copy to the undersigned is hereby acknowledged this 30th day of Nov., 1915.

A. MOODIE,  
Asst. Attorney for U. S.

[Indorsed]: Writ of Error. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. Nov. 30, 1915. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy. [77]



*United States District Court, Western District of  
Washington, Northern Division.*

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRY J. DAHL,

Defendant.

**Citation [on Writ of Error—Copy].**

To the United States of America, Greeting:

You are hereby cited and admonished to be and appear at a session of the United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the city of San Francisco, State of California, on the 29th day of December, 1915, next, pursuant to a writ of error filed in the clerk's office of the District Court of the United States for the Western District of Washington, Northern Division, wherein Harry J. Dahl is plaintiff in error, and the United States of America is defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

WITNESS the Honorable JEREMIAH NETERER, Judge of the United States District Court for the Western District of Washington this 30th day of Nov. 1915.

[Seal]

JEREMIAH NETERER,  
Judge.

Service of the foregoing citation and receipt of a copy thereof is hereby admitted this 30th day of November, 1915.

A. MOODIE,  
Assistant United States Attorney. [78]

[Indorsed]: Citation. Filed in the U. S. District Court, Western Dist. of Washington. Nov. 30, 1915. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy. [79]

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*United States District Court, Western District of  
Washington, Northern Division.*

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRY J. DAHL,

Defendant.

**Stipulation as to Record.**

It is hereby stipulated that the following designated papers comprise all the papers, exhibits and other proceedings which are necessary to the hearing of this cause upon writ of error to the United States Circuit Court of Appeals for the Ninth Circuit, and that none but such papers need be included in the records of said court:

Indictment.

Demurrer.

Order Overruling Demurrer.

Arraignment and Plea.

Verdict.

Judgment and Sentence.

Motion for New Trial.

Order Denying Motion.

Opinion.

Bond.

Order Continuing Bond.

Stipulation Extending Time to File Bill of Exceptions.

Order Extending Time to File Bill of Exceptions.

Stipulation and Order Substituting Copies for Original Exhibits.

Bill of Exceptions.

Order Settling Bill of Exceptions.

Petition for Writ of Error.

Assignment of Errors.

Supersedeas Bond.

Order Allowing Writ of Error.

Order as to Exhibits.

Stipulation as to Record.

Writ of Error.

Citation.

That the original exhibits herein may be attached to the record by the clerk and transmitted to the Circuit Court of Appeals and same need not be printed.

ALBERT MOODIE,

Assistant United States Attorney.

GORDON & EASTERDAY,

Attorneys for Defendant. [80]

We waive the provisions of the act approved February 13, 1911, and direct that you forward type-written transcript to the Circuit Court of Appeals

for printing as provided under rule 105 of this court.

GORDON & EASTERDAY,

Attys. for Deft. Dahl.

[Indorsed]: Stipulation as to Record. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. Dec. 2, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [81]

*In the District Court of the United States for the  
Western District of Washington, Northern Di-  
vision.*

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRY J. DAHL,

Defendant.

**Certificate of Clerk U. S. District Court to  
Transcript of Record.**

United States of America,

Western District of Washington,—ss.

I, Frank L. Crosby, clerk of the United States District Court, for the Western District of Washington, do hereby certify the foregoing 81 typewritten pages, numbered from 1 to 81, inclusive, to be a full, true, correct and complete copy of so much of the record, papers and other proceedings in the above and foregoing entitled cause as are necessary to the hearing of said cause on writ of error therein, in the United States Circuit Court of Appeals for the Ninth

Circuit, and as is stipulated for by counsel of record herein, as the same remain of record and on file in the office of the clerk of said District Court, and that the same constitute the record on return to said writ of error herein from the judgment of said United States District Court for the Western District of Washington to the United States Circuit Court of Appeals for the Ninth Circuit. [82]

I further certify the following to be a full, true and correct statement of all expenses, costs, fees and charges incurred and paid in my office by or on behalf of the plaintiff in error for making record, certificate or return to the United States Circuit Court of Appeals for the Ninth Circuit in the above-entitled cause, to wit:

Clerk's fee (sec. 828, R. S. U. S.), for making record, certificate or return, 144 folios at 15c. ....	\$21.60
Certificate of Clerk to transcript of record—	
4 folios at 15c.....	.60
Seal to said certificate .....	.20
Certificate of Clerk to Original Exhibits—3 folios at 15c.....	.45
Seal to said certificate .....	.20
	<hr/>
	\$23.05

I hereby certify that the above cost for preparing and certifying record amounting to \$23.05 has been paid to me by Messrs. Gordon & Easterday and E. C. Macdonald, attorneys for plaintiff in error.

I further certify that I hereto attach and herewith

transmit the original writ of error and original citation issued in this cause.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of said District Court at Seattle, in said District, this 20th day of December, 1915.

[Seal]

FRANK L. CROSBY,  
Clerk U. S. District Court. [83]

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*In the United States Circuit Court of Appeals for  
the Ninth Circuit.*

No. 2976.

HARRY J. DAHL,

Plaintiff in Error,

vs.

UNITED STATES OF AMERICA,

Defendant in Error.

**Writ of Error [Original].**

United States of America,  
Ninth Judicial Circuit,—ss.

The President of the United States of America: To  
the Honorable Judge of the District Court of  
the United States for the Western District of  
Washington:

Because in the record and proceedings, as also in the rendition of the judgment, of a plea which is in the said District Court before you, between the United States of America, as plaintiff, and Harry J. Dahl, as defendant, a manifest error hath happened, to the great damage of the said defendant,

as by his complaint appears, we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the party aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Circuit Court of Appeals for the Ninth Circuit, together with this writ, so that you have the same at the city of San Francisco, in the State of California, on the 29th day of December, 1915, next, in the said Circuit Court of Appeals to be then and there held, that the record and proceedings aforesaid being inspected, the said Circuit Court of Appeals may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United State, should be done.

WITNESS: The Honorable EDWARD D. WHITE, Chief Justice of [84] the United States of America, this 30th day of Nov., 1915.

[Seal] FRANK L. CROSBY,  
Clerk of the United States District Court for the  
Western District of Washington.

Allowed this 30th day of Nov., 1915, after plaintiff in error had filed with the clerk of this court with his petition for a writ of error his assignment of errors.

JEREMIAH NETERER,  
Judge of the District Court of the United States for  
the Western District of Washington. [85]

MOODIE,  
Asst. Attorney for U. S.

[Endorsed]: No. 2976. In the District Court of the United States, for the Western District of Washington, Northern Division. United States of America v. Harry J. Dahl, Defendant. Writ of Error. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. Nov. 30, 1915. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy.

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Service of the within writ by delivery of a copy to the undersigned is hereby acknowledged this 30 day of Nov. 1915. [86]

*United States District Court, Western District of Washington, Northern Division.*

No. 2976.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRY J. DAHL,

Defendant.

**Citation [on Writ of Error—Original].**

To the United States of America, Greeting:

You are hereby cited and admonished to be and appear at a session of the United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the city of San Francisco, State of California, on the 29th day of December, 1915, next, pursuant to a writ of error filed in the clerk's office of the District Court of the United States for the Western District of Washington, Northern Division, wherein Harry J. Dahl is plaintiff in error, and the United



States of America is defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

WITNESS the Honorable JEREMIAH NETERER, Judge of the United States District Court for the Western District of Washington, this 30th day of Nov., 1915.

[Seal]

JEREMIAH NETERER,

Judge.

Service of the foregoing citation and receipt of a copy thereof is hereby admitted this 30th day of November, 1915.

MOODIE,

Assistant United States Attorney. [87]

[Endorsed]: No. 2976. In the District Court of the United States, for the Western District of Washington, Northern Division. United States of America, vs. Harry J. Dahl, Defendant. Citation. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. Nov. 30, 1915. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy. [88]

[Endorsed] No. 2724. United States Circuit Court of Appeals for the Ninth Circuit. Harry J. Dahl, Plaintiff in Error, vs. The United States of America, Defendant in Error. Transcript of Record. Upon Writ of Error to the United States District Court of the Western District of Washington, Northern Division.

Received December 22, 1915.

F. D. MONCKTON,  
Clerk.

Filed December 30, 1915.

FRANK D. MONCKTON,  
Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.

By Paul P. O'Brien,  
Deputy Clerk.